

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re: AUTOMOTIVE PARTS ANTITRUST LITIGATION
ALL PARTS
THIS RELATES TO: ALL CASES

12-md-02311
Honorable Marianne O. Battani

**RESPONDING DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION
TO MODIFY STIPULATED ORDER OF DISCOVERY**

To the extent the End Payor Plaintiffs only seek to modify the Stipulated Order dated December 23, 2013 [Dkt. 664], as amended June 25, 2014 [Dkt. 750], which was entered following the Department of Justice's request for a limited stay of discovery (the "DOJ Discovery Stay"), the undersigned responding Defendants take no position with respect to the request for that limited relief.

To the extent that the End Payor Plaintiffs also seek a blanket order authorizing service of their proposed interrogatory in all product cases and requiring Defendants in all product cases to respond to the proposed interrogatory, the responding Defendants submit that such an order is not appropriate at this time for all cases.

The DOJ Discovery Stay already provides (at page 5):

This Order does not foreclose any party from objecting on any grounds available to it under the Federal Rules of Civil Procedure to any discovery request propounded in the Initial or Later Cases, or supersede any other stay of or limitation on discovery that may be imposed in any existing or subsequent case management order or discovery schedule applicable in any particular case.

While declining to oppose the requested modification of the DOJ Discovery Stay, the responding Defendants each reserve – as the DOJ Discovery Stay already contemplates – any other objections that may be available to them in their respective cases, and which would have been available to them even if the DOJ had never sought and obtained the DOJ Discovery Stay. This includes the objection that, irrespective of the DOJ’s view that the proposed interrogatory does not impede its investigation, the requested discovery may be premature in particular cases where motions to dismiss have not yet been decided (and in certain instances have not even been filed or fully briefed), as well as objections addressed to the specific substance of the Plaintiffs’ request. Indeed, while it may be appropriate in some of the earlier cases where operative complaints have been finalized and discovery is underway, the proposed interrogatory is premature and inappropriate at this time for those cases where an amended complaint has not been filed, where a motion to dismiss is pending, where the Defendants have not been served with process or have personal jurisdiction defenses, or where other circumstances make discovery premature under applicable rules.

Such relief also is not appropriate in light of the Order Appointing a Master [Dkt. 792], which provides that the Special Master has the authority “to schedule and coordinate discovery.” (Dkt. 792, ¶I(C).) The issues of whether and when to serve the interrogatory in each case – and the assessment of any objections to the content of such interrogatory – are precisely the type of pretrial discovery matters that the Court’s Order Appointing A Master instructs will be handled by the Special Master, as is further reflected by Your Honor’s recent referral of Plaintiffs’ motion to the Special Master.

A revised proposed form of Order is attached.

Dated: September 8, 2014

Respectfully submitted,

/s/ Peter L. Simmons

Peter L. Simmons
Steven M. Witzel
FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP
One New York Plaza
New York, New York 10004
Telephone: (212) 859-8000
Facsimile: (212) 859-4000
peter.simmons@friedfrank.com
steven.witzel@friedfrank.com

/s/ Thomas J. Tallerico (with consent)

Thomas J. Tallerico
Jason R. Gourley
BODMAN PLC
201 West Big Beaver Road, Suite 500
Troy, Michigan 48084
Telephone: (248) 743-6073
Facsimile: (248) 743-6002
ttallerico@bodmanlaw.com
jgourley@bodmanlaw.com

*Attorneys for Defendants T.RAD Co., Ltd., and
T.RAD North America, Inc.*

/s/ George A. Nicoud III (with consent)

George A. Nicoud III (SBN 160111)
Austin Schwing (SBN 211696)
Stuart McPhail (SBN 287048)
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
Telephone: (415) 393-8200
Facsimile: (415) 393-8306
tnicoud@gibsondunn.com
aschwing@gibsondunn.com
smcphail@gibsondunn.com

*Attorneys for Defendants American Mitsuba
Corporation and Mitsuba Corporation*

/s/ Craig P. Seebald (with consent)

Craig P. Seebald
Alden L. Atkins
Lindsey R. Vaala
VINSON & ELKINS LLP
2200 Pennsylvania Avenue, N.W.
Suite 500 West
Washington, DC 20037
Telephone: (202) 639-6585
Facsimile: (202) 879-8995
cseebald@velaw.com
aatkins@velaw.com
lvaala@velaw.com

*Attorneys for Hitachi Automotive Systems,
Ltd., Hitachi Automotive Systems Americas,
Inc., and Hitachi, Ltd.*

/s/ Howard B. Iwrey (with consent)

Howard B. Iwrey (P39635)
Brian M. Moore (P58584)
DYKEMA GOSSETT PLLC
39577 Woodward Ave., Suite 300
Bloomfield Hills, MI 48304
Tel: (248) 203-0700
Fax: (248) 203-0763
hiwrey@dykema.com
bmoore@dykema.com

Franklin R. Liss
Barbara H. Wootton
Tiana Russell
Lauren K. Peay
ARNOLD & PORTER LLP
555 Twelfth Street NW
Washington, DC 20004
Tel: (202) 942-5969
Fax: (202) 942-5999
frank.liss@aporter.com
barbara.wootton@aporter.com
tiana.russell@aporter.com
lauren.peay@aporter.com

*Attorneys for Defendants Koito Manufacturing
Co., Ltd. and North American Lighting, Inc.*

/s/ Heather L. Kafele (with consent)

Heather L. Kafele
Keith Palfin
Alison R. Welcher
SHEARMAN & STERLING LLP
801 Pennsylvania Avenue NW, Ste. 900
Washington, DC 20004
Telephone: (202) 508-8000
Facsimile: (202) 508-8100
hkafele@shearman.com
keith.palfin@shearman.com
alison.welcher@shearman.com

Brian M. Akkashian
PAESANO AKKASHIAN, PC
132 N. Old Woodward Avenue
Birmingham, MI 48009
248-792-6886
bakkashian@paesanoakkashian.com

*Attorneys for Defendants JTEKT Corporation,
JTEKT North America Corporation (formerly
d/b/a Koyo Corporation of U.S.A.), and
JTEKT Automotive North America, Inc.*

/s/ Gary K. August (with consent)

ZAUSMER, KAUFMAN, AUGUST &
CALDWELL, P.C.
31700 Middlebelt Road
Suite 150
Farmington Hills, Michigan 48334-2374
Telephone (248) 851-4111
gaugust@zkac.com

*Attorneys for Mitsubishi Electric Corporation,
Mitsubishi Electric US Holdings, Inc., and
Mitsubishi Electric Automotive America, Inc.*

/s/ Debra H. Dermody (with consent)

Debra H. Dermody
Michelle A. Mantine
REED SMITH LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Telephone: (412) 288-3302/4268
Fax: (412) 288-3063
ddermody@reedsmith.com
mmantine@reedsmith.com

/s/ Howard B. Iwrey (with consent)

Howard B. Iwrey (P39635)
Brian M. Moore (P58584)
DYKEMA GOSSETT PLLC
39577 Woodward Avenue
Bloomfield Hills, Michigan 48304
Telephone: (248) 203-0526
Fax: (248) 203-0763
hiwrey@dykema.com
bmoore@dykema.com

*Attorneys for Defendant
SKF USA Inc.*

/s/ Marguerite M. Sullivan (with consent)

Marguerite M. Sullivan (DC Bar #497894)

William H. Rawson (DC Bar #999249)

LATHAM & WATKINS LLP

555 Eleventh Street NW, Suite 1000

Washington, DC 20004-1304

Tel.: (202) 637-2200

Fax: (202) 637-2201

marguerite.sullivan@lw.com

william.h.rawson@lw.com

Daniel M. Wall (CA Bar #102580)

LATHAM & WATKINS LLP

505 Montgomery Street, Suite 2000

San Francisco, CA 94111-6538

Tel.: (415) 391-0600

Fax: (415) 395-8095

dan.wall@lw.com

Attorneys for Defendant

Ichikoh Industries, Ltd.

/s/ Robert J. Wierenga (with consent)

Robert J. Wierenga
Suzanne L. Wahl
SCHIFF HARDIN LLP
340 S. Main Street, Suite 210
Ann Arbor, MI 48104
734-222-1500
Fax: (734) 222-1501
rwierenga@schiffhardin.com
swahl@schiffhardin.com

David M. Zinn
John E. Schmidtlein
Samuel Bryant Davidoff
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005
202-434-5000
Fax: 202-434-5029
dzinn@wc.com
jschmidtlein@wc.com
sdavidoff@wc.com

*Attorneys for Defendants Takata Corporation
and TK Holdings Inc.*

/s/ Steven A. Reiss (with consent)

Steven A. Reiss
Adam C. Hemlock
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153-0119
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
steven.reiss@weil.com
adam.hemlock@weil.com

Frederick R. Juckniess
SCHIFF HARDIN LLP
350 South Main Street, Suite 210
Ann Arbor, MI 48104
Telephone: (734) 222-1504
fjuckniess@schiffhardin.com

*Attorneys for Bridgestone Corporation and
Bridgestone APM Company*

/s/ Corey W. Roush (with consent)

Corey W. Roush
William L. Monts, III
Meghan C. Edwards-Ford
HOGAN LOVELLS US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
Tel: 202.637.5600
Fax: 202.637.5910
corey.roush@hoganlovells.com
william.monts@hoganlovells.com
meghan.edwards-ford@hoganlovells.com

*Attorneys for Mitsubishi Heavy Industries
America, Inc. and Mitsubishi Heavy Industries
Climate Control, Inc.*

/s/ Jeremy J. Calsyn (with consent)

Jeremy J. Calsyn
CLEARY GOTTLIEB STEEN &
HAMILTON LLP
2000 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 974-1522
jcalsyn@cgsh.com

David A. Ettinger
HONIGMAN, MILLER, SCHWARTZ AND
COHN LLP
660 Woodward Avenue
Suite 2290
Detroit, MI 48226-3506
(313) 465-7368
dettinger@honigman.com

*Attorneys for Defendants NSK Ltd. and NSK
Americas, Inc.*

/s/ David C. Giardina (with consent)

David C. Giardina
Courtney A. Rosen
SIDLEY AUSTIN LLP
One S. Dearborn St.
Chicago, IL 60603
Telephone: (312) 853-7000
Facsimile: (312) 853-7036
dgiardina@sidley.com
crosen@sidley.com

/s/ Bradley J. Schram (with consent)

Bradley J. Schram (MI Bar # P26337)
HERTZ SCHRAM PC
1760 S. Telegraph Rd., Suite 300
Bloomfield Hills, MI 48302
Telephone: (248) 335-5000
Facsimile: (248) 335-3346
bschram@hertzschram.com

*Attorneys for Toyo Tire & Rubber Co., Ltd.,
Toyo Automotive Parts (USA), Inc., Toyo Tire
North America OE Sales LLC, and Toyo Tire
North America Manufacturing, Inc.*

/s/ Matthew J. Reilly (with consent)

Matthew J. Reilly
Abram J. Ellis
David T. Shogren
SIMPSON THACHER & BARTLETT LLP
1155 F Street, N.W.
Washington, DC 20004
Telephone: (202) 636-5500
Facsimile: (202) 636-5502
matt.reilly@stblaw.com
aellis@stblaw.com
dshogren@stblaw.com

George S. Wang
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, NY 10017
Telephone: (212) 455-2000
Facsimile: (212) 455-2502
gwang@stblaw.com

*Attorneys for Defendants Stanley Electric Co.,
Ltd.; Stanley Electric U.S. Co., Inc.; and II
Stanley Co., Inc.*

/s/ Howard B. Iwrey (with consent)

Howard B. Iwrey (P39635)
DYKEMA GOSSETT PLLC
39577 Woodward Ave., Suite 300
Bloomfield Hills, MI 48304
Tel: (248) 203-0700
Fax: (248) 203-0763
hiwrey@dykema.com

Brian Byrne
Ryan Davis
CLEARY GOTTLIEB STEEN &
HAMILTON LLP
2000 Pennsylvania Avenue NW
Washington, DC 20006
Telephone: (202) 974-1850
Facsimile: (202) 974-1999
bbyrne@cgsh.com
rmdavis@cgsh.com

*Attorneys for Valeo S.A., Valeo Japan Co.,
Ltd., Valeo Inc., Valeo Electrical Systems, Inc.,
and Valeo Climate Control Corp.*

/s/ Matthew J. Reilly (with consent)
Matthew J. Reilly
Abram J. Ellis
David T. Shogren
SIMPSON THACHER & BARTLETT LLP
1155 F Street, N.W.
Washington, DC 20004
Telephone: (202) 636-5500
Facsimile: (202) 636-5502
matt.reilly@stblaw.com
aellis@stblaw.com
dshogren@stblaw.com

George S. Wang
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, NY 10017
Telephone: (212) 455-2000
Facsimile: (212) 455-2502
gwang@stblaw.com

*Attorneys for Defendants Diamond Electric
Mfg. Co., Ltd. and Diamond Electric Mfg.
Corp.*

/s/ James L. Cooper (with consent)

James L. Cooper
Danielle Garten
Adam Pergament
ARNOLD & PORTER LLP
555 Twelfth Street NW
Washington, DC 20004-1206
Telephone: (202) 942-5000
Facsimile: (202) 942-5999
James.Cooper@aporter.com
Danielle.Garten@aporter.com
Adam.Pergament@aporter.com

Joanne Geha Swanson (P33594)
Fred K. Herrmann (P49519)
KERR, RUSSELL AND WEBER, PLC
500 Woodward Avenue
Suite 2500
Detroit, MI 48226
Telephone: (313) 961-0200
jswanson@kerr-russell.com
fherrmann@kerr-russell.com

*Attorneys for Yamashita Rubber Co., Ltd. and
YUSA Corporation*

CERTIFICATE OF SERVICE

I, Peter L. Simmons, hereby certify that on September 8, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to ECF-registered counsel in this matter.

/s/ Peter L. Simmons

Peter L. Simmons

FRIED, FRANK, HARRIS, SHRIVER

& JACOBSON LLP

One New York Plaza

New York, New York 10004

Telephone: (212) 859-8000

Facsimile: (212) 859-4000

peter.simmons@friedfrank.com